

## National Credit Union Administration

## § 713.2

and assurances and forward the exemption request, along with the regional director's recommendation, to the NCUA Board for a final determination.

(f) For purposes of this section, whether an entity is a CUSO shall be determined in accordance with the definition set out in § 741.222 of this chapter.

[78 FR 72549, Dec. 3, 2013]

### § 712.11 What requirements apply to subsidiary CUSOs?

(a) *FCUs investing in a CUSO with a subsidiary CUSO.* FCUs may only invest in or loan to a CUSO, which has a subsidiary CUSO, if the subsidiary CUSO satisfies all of the requirements of this part. The requirements of this part apply to all tiers or levels of a CUSO's structure.

(b) *FISCUs investing in a CUSO with a subsidiary CUSO.* FISCUs may only invest in or loan to a CUSO which has a subsidiary CUSO, if the subsidiary CUSO complies with the following:

(1) All applicable state laws and rules regarding CUSOs; and

(2) All of the requirements of this part that apply to FISCUs, which are listed in § 712.1. The requirements of this part that apply to FISCUs apply to all tiers or levels of a CUSO's structure.

(c) For purposes of this section, a subsidiary CUSO is any entity in which a CUSO has an ownership interest of any amount, if that entity is engaged primarily in providing products or services to credit unions or credit union members.

[78 FR 72549, Dec. 3, 2013]

## PART 713—FIDELITY BOND AND INSURANCE COVERAGE FOR FEDERALLY INSURED CREDIT UNIONS

Sec.

713.1 What is the scope of this section?

713.2 What are the responsibilities of a federally insured credit union's board of directors under this section?

713.3 What bond coverage must a federally insured credit union have?

713.4 What bond forms may a federally insured credit union use?

713.5 What is the required minimum dollar amount of coverage?

713.6 What is the permissible deductible?

713.7 May the NCUA Board require a federally insured credit union to secure additional insurance coverage?

AUTHORITY: 12 U.S.C. 1761a, 1761b, 1766(a), 1766(h), 1789(a)(11).

SOURCE: 64 FR 28720, May 27, 1999, unless otherwise noted.

### § 713.1 What is the scope of this section?

This section provides the requirements for fidelity bonds for federally insured credit union employees and officials and for other insurance coverage for losses such as theft, holdup, vandalism, etc., caused by persons outside the credit union. Federally insured, state-chartered credit unions are required by § 741.201 of this chapter to comply with the fidelity bond coverage requirements of this part. Corporate credit unions must comply with § 704.18 of this chapter in lieu of this part.

[84 FR 35524, July 24, 2019]

### § 713.2 What are the responsibilities of a federally insured credit union's board of directors under this section?

(a) The board of directors of each federally insured credit union must at least annually review its fidelity and other insurance coverage to ensure that it is adequate in relation to the potential risks facing the federally insured credit union and the minimum requirements set by the NCUA Board; and

(b) The board of directors of each federally insured credit union must review all applications for purchase or renewal of its fidelity bond coverage. After review, the federally insured credit union's board must pass a resolution approving the purchase or renewal of fidelity bond coverage and delegate one member of the board, who is not an employee of the federally insured credit union, to sign the purchase or renewal agreement and all attachments; provided, however, that no board members may be a signatory on consecutive purchase or renewal agreements for the same fidelity bond coverage policy.

[84 FR 35524, July 24, 2019]

## § 713.3

## 12 CFR Ch. VII (1–1–22 Edition)

### § 713.3 What bond coverage must a federally insured credit union have?

(a) At a minimum, your bond coverage must:

(1) Be purchased in an individual policy from a company holding a certificate of authority from the Secretary of the Treasury;

(2) Cover fraud and dishonesty by all employees, directors, officers, supervisory committee members, and credit committee members;

(3) Include an option for the liquidating agent to purchase coverage in the event of an involuntary liquidation that extends the discovery period for a covered loss for at least one year after liquidation; and

(4) In the case of a voluntary liquidation, remain in effect, or provide that the discovery period is extended, for at least four months after the final distribution of assets, as required in § 710.2(c) of this chapter.

(b) The requirement in subsection (a) of this section does not prohibit a federally insured credit union from having a fidelity bond that also covers its credit union service organization (CUSO(s)), provided the federally insured credit union owns more than 50 percent of the CUSO(s) or the CUSO(s) is organized by the federally insured credit union for the purpose of handling certain of its business transactions and composed exclusively of the federally insured credit union's employees.

[84 FR 35524, July 24, 2019]

### § 713.4 What bond forms may a federally insured credit union use?

(a) The NCUA Board must approve all bond forms before federally insured credit unions may use them.

(b) Bond forms the NCUA Board has approved for use by federally insured credit union are listed on the NCUA's website, <http://www.ncua.gov>, and may be used by federally insured credit unions without further NCUA approval. If you are unable to access the NCUA's website, you can obtain a current listing of approved bond forms by contacting the NCUA at (703) 518-6330.

(c) Federally insured credit unions may not use any of the following without first receiving approval from the NCUA Board:

(1) Any bond form that has been amended or changed since the time the NCUA Board approved the form; and

(2) Any rider, endorsement, renewal, or other document that limits coverage of approved bond forms.

(d) Approval on all bond forms expires after a period of 10 years from the date the NCUA Board approved or re-approved use of the bond form unless otherwise determined by the NCUA Board. Provided, however, that:

(1) Any bond forms approved before 2019 will expire on January 1, 2029, unless otherwise determined by the NCUA Board; and

(2) The NCUA reserves the right to review a bond form at any point after its approval.

[84 FR 35524, July 24, 2019]

### § 713.5 What is the required minimum dollar amount of coverage?

(a) The minimum required amount of fidelity bond coverage for any single loss is computed based on a federally insured credit union's total assets.

Assets	Minimum bond
\$0 to \$4,000,000 .....	Lesser of total assets or \$250,000.
\$4,000,001 to \$50,000,000 .....	\$100,000 plus \$50,000 for each million or fraction thereof over \$1,000,000.
\$50,000,000 to \$500,000,000 .....	\$2,550,000 plus \$10,000 for each million or fraction thereof over \$50,000,000, to a maximum of \$5,000,000.
Over \$500,000,000 .....	One percent of assets, rounded to the nearest hundred million, to a maximum of \$9,000,000.

(b) This is the minimum coverage required, but a federally insured credit

union's board of directors should purchase additional or enhanced coverage

## National Credit Union Administration

## § 713.6

when its circumstances warrant. In making this determination, a board of directors should consider its own internal risk assessment, its fraud trends and loss experience, and factors such as its cash on hand, cash in transit, and the nature and risks inherent in any expanded services it offers such as wire transfer and remittance services.

(c) While the above is the required minimum amount of bond coverage, federally insured credit unions should maintain increased coverage equal to the greater of either of the following amounts within thirty days of discovery of the need for such increase:

(1) The amount of the daily cash fund, i.e. daily cash plus anticipated daily money receipts on the federally insured credit union's premises, or

(2) The total amount of the federally insured credit union's money in transit in any one shipment.

(3) Increased coverage is not required pursuant to paragraph (c) of this section, however, when the federally insured credit union temporarily increased its cash fund because of unusual events which cannot reasonably be expected to recur.

(d) Any aggregate limit of liability provided for in a fidelity bond policy must be at least twice the single loss limit of liability. This requirement does not apply to optional insurance coverage.

(e) Any proposal to reduce a federally insured credit union's required bond coverage must be approved in writing by the NCUA Board at least twenty days in advance of the proposed effective date of the reduction.

[64 FR 28720, May 27, 1999, as amended at 70 FR 61716, Oct. 26, 2005; 84 FR 35525, July 24, 2019]

### § 713.6 What is the permissible deductible?

(a)(1) The maximum amount of allowable deductible is computed based on a federally insured credit union's asset size and capital level, as follows:

Assets	Maximum deductible
\$0 to \$100,000 .....	No deductible allowed.
\$100,001 to \$250,000.	\$1,000.
\$250,000 to \$1,000,000.	\$2,000.

Assets	Maximum deductible
Over \$1,000,000 ....	\$2,000 plus 1/1000 of total assets up to a maximum of \$200,000; for credit unions that have received a composite CAMEL rating of "1" or "2" for the last two (2) full examinations and maintained a capital classification of "well capitalized" under part 702 of this chapter for the six (6) immediately preceding quarters the maximum deductible is \$1,000,000.

(2) The deductibles may apply to one or more insurance clauses in a policy. Any deductibles in excess of the above amounts must receive the prior written permission of the NCUA Board.

(b) A deductible may not exceed 10 percent of a federally insured credit union's Regular Reserve unless a separate Contingency Reserve is set up for the excess. In computing the maximum deductible, valuation accounts such as the allowance for loan losses cannot be considered.

(c) A federally insured credit union that has received a composite CAMEL rating of "1" or "2" for the last two (2) full examinations and maintained a capital classification of "well capitalized" under part 702 of this chapter for the six (6) immediately preceding quarters is eligible to qualify for a deductible in excess of \$200,000. The federally insured credit union's eligibility is determined based on it having assets in excess of \$1 million as reflected in its most recent year-end 5300 call report. A federally insured credit union that previously qualified for a deductible in excess of \$200,000, but that subsequently fails to qualify based on its most recent year-end 5300 call report because either its assets have decreased or it no longer meets the capital requirements of this paragraph or fails to meet the CAMEL rating requirements of this paragraph as determined by its most recent examination report, must obtain the coverage otherwise required by paragraph (b) of this section within 30 days of filing its year-end call report and must notify the appropriate NCUA regional office in writing of its changed status and confirm that it has obtained the required coverage.

[64 FR 28720, May 27, 1999, as amended at 70 FR 61716, Oct. 26, 2005; 77 FR 31992, May 31, 2012; 80 FR 66723, Oct. 29, 2015; 84 FR 35525, July 24, 2019]

## § 713.7

EFFECTIVE DATE NOTE: At 86 FR 59289, Oct. 27, 2021, § 713.6 was amended in the table in paragraph (a)(1) and paragraph (c), by removing the word “CAMEL” and adding in its place the word “CAMELS” wherever it appears, effective Apr. 1, 2022.

### **§ 713.7 May the NCUA Board require a federally insured credit union to secure additional insurance coverage?**

The NCUA Board may require additional coverage when the NCUA Board determines that a federally insured credit union's current coverage is inadequate. The federally insured credit union must purchase this additional coverage within 30 days.

[84 FR 35525, July 24, 2019]

## **PART 714—LEASING**

Sec.

714.1 What does this part cover?

714.2 What are the permissible leasing arrangements?

714.3 Must you own the leased property in an indirect leasing arrangement?

714.4 What are the lease requirements?

714.5 What is required if you rely on an estimated residual value greater than 25% of the original cost of the leased property?

714.6 Are you required to retain salvage powers over the leased property?

714.7 What are the insurance requirements applicable to leasing?

714.8 Are the early payment provisions, or interest rate provisions, applicable in leasing arrangements?

714.9 Are indirect leasing arrangements subject to the purchase of eligible obligation limit set forth in § 701.23 of this chapter?

714.10 What other laws must you comply with when engaged in leasing?

AUTHORITY: 12 U.S.C. 1756, 1757, 1766, 1785, 1789.

SOURCE: 65 FR 34585, May 31, 2000, unless otherwise noted.

### **§ 714.1 What does this part cover?**

This part covers the standards and requirements that you, a federal credit union, must follow when engaged in the leasing of personal property.

### **§ 714.2 What are the permissible leasing arrangements?**

(a) You may engage in direct leasing. In direct leasing, you purchase personal property from a vendor, becoming the owner of the property at the re-

## **12 CFR Ch. VII (1–1–22 Edition)**

quest of your member, and then lease the property to that member.

(b) You may engage in indirect leasing. In indirect leasing, a third party leases property to your member and you then purchase that lease from the third party for the purpose of leasing the property to your member. You do not have to purchase the leased property if you comply with the requirements of § 714.3.

(c) You may engage in open-end leasing. In an open-end lease, your member assumes the risk and responsibility for any difference in the estimated residual value and the actual value of the property at lease end.

(d) You may engage in closed-end leasing. In a closed-end lease, you assume the risk and responsibility for any difference in the estimated residual value and the actual value of the property at lease end. However, your member is always responsible for any excess wear and tear and excess mileage charges as established under the lease.

### **§ 714.3 Must you own the leased property in an indirect leasing arrangement?**

You do not have to own the leased property in an indirect leasing arrangement if:

(a) You obtain a full assignment of the lease. A full assignment is the assignment of all the rights, interests, obligations, and title in a lease to you, that is, you become the owner of the lease;

(b) You are named as the sole lienholder of the leased property;

(c) You receive a security agreement, signed by the leasing company, granting you a sole lien in the leased property and the right to take possession and dispose of the leased property in the event of a default by the lessee, a default in the leasing company's obligations to you, or a material adverse change in the leasing company's financial condition; and

(d) You take all necessary steps to record and perfect your security interest in the leased property. Your state's Commercial Code may treat the automobiles as inventory, and require a filing with the Secretary of State.